

MITIGATED NEGATIVE DECLARATION

February 19, 2004

Project Name: Flinn Springs 72, LLC Boundary Adjustment with a Certificate of Compliance

Project Number: BC 02-0125, Log No. 02-14-046

This Document is Considered Draft Until it is Adopted by the Appropriate County of San Diego Decision-Making Body.

This Mitigated Negative Declaration is comprised of this form along with the Environmental Initial Study that includes the following:

- a. Initial Study Form
- b. Environmental Analysis Form and attached extended studies for Biological Resources and Cultural Resources.

1. California Environmental Quality Act Mitigated Negative Declaration Findings:

Find, that this Mitigated Negative Declaration reflects the decision-making body's independent judgment and analysis, and; that the decision-making body has reviewed and considered the information contained in this Mitigated Negative Declaration and the comments received during the public review period; and that revisions in the project plans or proposals made by or agreed to by the project applicant would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur; and, on the basis of the whole record before the decision-making body (including this Mitigated Negative Declaration) that there is no substantial evidence that the project as revised will have a significant effect on the environment.

2. Required Mitigation Measures:

Refer to the attached Environmental Initial Study for the rationale for requiring the following measures:

- I. Prior to approval of the boundary adjustment, the applicant shall:
- 1) Grant to the County of San Diego and the California Department of Fish and Game an open space or conservation easement as shown on the Open Space Exhibit dated January 6, 2004 on file with DPLU as Environmental Review Number 02-14-046. This easement is for the protection of biological resources including 9.03 acres of coastal sage-chaparral scrub and prohibits all of the following on any portion of the land subject to said easement: grading; excavation; placement of soil, sand, rock, gravel, or other material; clearing of vegetation; construction, erection, or placement of any building or structure; vehicular activities; trash dumping; or use for any purpose other than as open space. Granting of this open space authorizes the County and its agents to periodically access the land to perform management and monitoring activities for the purposes of species and habitat conservation.

The sole exception(s) to this prohibition is:

- a. Selective clearing of vegetation by hand to the extent required by written order of the fire authorities for the express purpose of reducing an identified fire hazard. While clearing for fire management is not anticipated with the creation of this easement, such clearing may be deemed necessary in the future for the safety of lives and property. All fire clearing shall be pursuant to the Uniform Fire Code and the Memorandum of Understanding dated February 26, 1997, between the wildlife agencies and the fire districts, and any subsequent amendments thereto.

NOTICE: The above gives the applicant the option to voluntarily dedicate a Conservation Easement. Should the applicant choose to dedicate a Conservation Easement (instead of an open space easement) and upon fulfillment of the requirements for permanent mitigation and management of preserved areas as outlined in Section 17.1 (A) of the County's Implementing Agreement for the Multiple Species Conservation Program (MSCP) Plan, Third Party Beneficiary Status can be attained for the project. Third party beneficiary status allows the property owner to perform "incidental take" under the State and Federal Endangered Species Acts, of species covered by the MSCP Plan while undertaking land development activities in conformance with an approval granted by the County in compliance with the County's Implementing

Agreement. Should Third Party Beneficiary Status not be obtained, the applicant will be required to obtain take authorization for the State and Federal listed species covered by the MSCP Plan through the traditional permitting processes administered by the State and Federal Wildlife Agencies.

- 2) Grant to the County of San Diego a limited building zone easement to limit the need to clear or modify vegetation for fire protection purposes within the adjacent biological open space easement. This limited building zone easement prohibits the construction or placement of any structure designed or intended for occupancy by humans or animals, as shown in the Open Space Exhibit dated January 6, 2004 on file as ER #02-14-046 with the Department of Planning and Land Use. The only exceptions to this prohibition are:
 - a. Decking, fences, and similar facilities.
 - b. Sheds, gazebos, and detached garages, less than 250 square feet in total floor area, that are designed, constructed and placed so that they do not require clearing or fuel modification within the biological open space easement, beyond the clearing/fuel modification required for the primary structures on the property.
 - c. Structures located no less than 30 feet from the nearest biological open space easement boundary, provided that the structures meet the minimum Fire-Resistive Construction Requirements as defined by the Fire Protection Authority (FPA) having jurisdiction over the property and that FPA has approved in writing a reduction in the vegetation clearing / fuel modification requirements so that they will not be required within any portion of the biological open space easement.
- 3) Submit to the Director, Department of Planning and Land Use a signed, stamped statement from a California Registered Engineer, or licensed surveyor that permanent fences or walls have been placed to protect from inadvertent disturbance all open space easement(s) that do not allow grading, brushing or clearing. Permanent fencing or walls are required in all locations of the project as shown in the Open Space Fencing and Signage Exhibit dated January 6, 2004, on file as Environmental Review Number 02-14-046 with the Department of Planning and Land Use. The permanent fence location(s) shall be identified in the field by a

California Registered Engineer or licensed surveyor and positioned just outside of the open space easement. Photographs and a brief description of design and materials used shall be submitted with the statement from the California Registered Engineer. Construction materials and fence and/or wall design are subject to approval by the Department of Planning and Land Use. Minimum fence or wall height shall be 4 feet.

- 4) Submit to the Director, Department of Planning and Land Use evidence that permanent signs have been placed to protect all Open Space Easements in accordance with on the Open Space Fencing and Signage Exhibit dated January 6, 2004 on file with the Department of Planning and Land Use as Environmental Review Number 02-14-046. Evidence shall include photographs of a sign placed on the project and a stamped, signed statement from a California Registered Engineer, or licensed surveyor that permanent signs have been placed on the open space easement boundaries in accordance with the requirements of this condition. The signs must be corrosion resistant and 6 inches x 9 inches minimum in size, on posts not less than 3 feet in height from the ground surface and must state the following:

“Sensitive Environmental Resources
Disturbance Beyond this Point is Restricted
by Easement

Information:

Contact County of San Diego, Department of Planning and Land Use
Ref: ER 02-14-046”

3. Critical Project Design Elements That Must Become Conditions of Approval:

The following project design elements were either proposed in the project application or the result of compliance with specific environmental laws and regulations and were essential in reaching the conclusions within the attached Environmental Initial Study. While the following are not technically mitigation measures, their implementation must be assured to avoid potentially significant environmental effects.

None.

February 19, 2004

ADOPTION STATEMENT: This Mitigated Negative Declaration was adopted and above California Environmental Quality Act findings made by the:

Director of Planning and Land Use

on _____

JOSEPH FARACE, Planning Manager
Regulatory Planning Division

JF:KB:EM:tf

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